

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JENNIFER ALLAN,	)	
	)	NO. CV S-01-2231 GEB GGH
Plaintiff,	)	
	)	
v.	)	
	)	<u>ORDER</u>
CITY OF MARYSVILLE, et al.,	)	
	)	
Defendants.	)	
_____	)	

Several prevailing Defendants filed motions for attorney's fees under 42 U.S.C. § 1988, arguing that Plaintiff's claims against them were frivolous. Attorney's fees can be awarded to a prevailing party if the plaintiff's claim is found to be frivolous, unreasonable, or without foundation. Saman v. Robbins, 173 F.3d 1150, 1157 (9th Cir. 1999).

The movants' respective requests for attorney's fees assume that all of Plaintiff's claims were frivolous, even though certain claims were not. Even assuming certain movants' entitlement to attorney's fees on the arguable claims that lacked sufficient foundation, the precise amount of attorney's fees a prevailing movant could receive has not been specified - the respective motions each

1 seek a total fee award irregardless of the fact that nonfrivolous  
2 claims were tried. Therefore, each attorney's fees motion is denied.  
3 Cf. Jensen v. Stangel, 762 F.2d 815, 818 (9th Cir. 1985) (upholding  
4 the denial of attorney's fees for a frivolous claim in part because  
5 "the record contains no information showing how much of the total fees  
6 related to the [frivolous claim].").

7 The prevailing Defendants move for sanctions under the  
8 court's inherent power and Rule 11 and 28 U.S.C. § 1927. Those  
9 motions are denied because sanctions under this authority have not  
10 been shown to be justified.

11 For the stated reasons, the motions are denied.

12 IT IS SO ORDERED.

13 Dated: June 13, 2005

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15 /s/ Garland E. Burrell, Jr.  
16 GARLAND E. BURRELL, JR.  
United States District Judge  
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